

**VILLAGE OF CROTON-ON-HUDSON
DRAFT MINUTES OF THE ZONING BOARD OF APPEALS MEETING
WEDNESDAY, JULY 13, 2022**

PRESENT: Christine Wagner, Chairperson
Rocco Mastronardi
Daron Weber

ABSENT: Doug Olcott
James Tuman

ALSO PRESENT: Ron Wegner, Assistant Engineer P.E
Alejandro Rosales, Village Board Liaison
Len Simon, Village Board Liaison

1. CALL TO ORDER:

Chairperson Wagner called the Zoning Board of Appeals Meeting to order on July 13, 2022 at 8:18pm.

2. NEW BUSINESS

- a) ***Julie Evans, Architect, AIA, representing Michelle Franks & John Neill, Owners--44 Park Trail—Located in the RA-25 District and designated on the Tax Maps of the Village of Croton-on-Hudson as Section 68.13-3-14. Request for a rear yard variance from Village Code Section 230-33A for a proposed 1-room addition on an existing residence.***

Julie Evans, architect, stated that she was representing her clients, Michelle Franks and John Neil of 44 Park Trail. Ms. Evans explained to the Board that her clients are applying for a rear yard variance to build a small addition of a home office on top of an existing deck that is 8' ft deep. Ms. Evans stated that they will create 125 square feet of habitable space with additional building coverage. Ms. Evans stated that in the Zoning Board application packets, a previously granted variance resolution was included and that the variance allowed for a family room and bedroom addition on top that is roughly 15' ft from back from the property line. Ms. Evans explained to the Board that in creating a new, enclosed space they need to extend the existing non-conforming area to the rear.

Ms. Evans stated that there were no other practical approaches for the addition. Ms. Evans gave a brief history of the additions previously done to the house explaining that the homeowners had already added to both sides of the house eliminating the possibility of creating the office space. Ms. Evans also explained that the existing living room is also close to the septic system, therefore they could not expand that area either.

Ms. Evans went on to describe the setting of 44 Park Trail. Ms. Evans described the property as being privately tucked away in the trails area of the Village and that the homeowners' intention is to keep as many trees on the property as possible. Ms. Evans stated that the neighbor at 42 park is the only property that you can see slightly through the view of trees. The applicant further explained that the small addition would be located on the quiet side of the house and there should not change the environment and setting with enclosing the deck to create the home office. Ms. Evans shared that the new room (office) is designed to be built on piers not on a foundation, therefore, there will be minimum disruption to the ground and soil. It was clarified that there will be no exterior entrance in the new room addition.

Chairperson Wagner opened the public hearing, and hearing no comments on the application, the public hearing was closed.

The Zoning Board of Appeals discussed and reviewed the five factors:

1. No undesirable change in the character of the neighborhood nor detriment to nearby properties will be produced by the granting of the variance.

The Board discussed and agreed that it is a small, well-designed addition in a private setting and there would be no negative impact on the character of the neighborhood.

2. The benefit sought by the applicant can be achieved by a method other than the requested variance.

The Board discussed the notion that the creation of a home office could have potentially been created in an existing area of the house.

3. The requested variance is not substantial.
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. The difficulty alleged by the applicant was self-created.

The Board noted in making their decision that while the variance requested was 9.23'ft, they will grant a rear yard variance of 9.5'ft to give "wiggle room."

MOTION: Mr. Mastronardi made a motion to grant a 9.5' ft rear yard variance to construct a 1 room office addition. Chairperson Wagner seconded the motion. All in favor 3-0 (Mr. Olcott, absent; Mr. Tuman, Absent). Roll Call: Mr. Mastronardi, yes, Chairperson Wagner, yes, Mr. Weber, yes.

b) Dan Pancotti, Tenant & Attorney—104 Grand Street— located in a O-1 Limited Office District and is designated on the Tax Maps of the Village of Croton-on-Hudson as Section 78.8 Block 6 Lot 37. Request for an area variance from Village Code Section 230-9.1A(10)(b)(1) for a non-owner-occupied residential 2nd floor apartment with a professional office on the 1st floor.

Chairperson Wagner invited the next applicant up to present and asked that they walk the Board through their application. Mr. Pancotti introduced himself to the Board stating that he is the tenant and attorney of 104 Grand Street. Mr. Pancotti stated that he is requesting an area variance for the property. Mr. Pancotti explained to the Board that the building is currently zoned as O-1 which allows for the building to be used as an office, 2-family, or mixed use but that the building must be owner occupied. Mr. Pancotti explained that the current owners are looking to sell the property and that it would be beneficial to him as the potential buyer of the property if the requested variance be granted. Mr. Pancotti stated that allowing for the 2nd floor apartment to be non-owner occupied would help to create more, much-needed apartments for rent within the Village. Mr. Pancotti stated that allowing for a non-owner-occupied residential unit above the office space would not have a detrimental impact on the neighborhood and presented 6 neighbor letters of support.

Chairperson Wagner asked if the Board had additional questions for the applicant.

The Board asked Assistant Village Engineer, Ron Wegner if the variance would trigger ADA requirements. Mr. Wegner answered that it would not because there are no physical changes being made to the structure.

With no further questions from the Board, Chairperson Wagner opened the public hearing and asked if there was anyone who wanted to be heard on this application.

Maria Modica-Snow, owner of 104 Grand Street came forward to speak in favor of the application. Ms. Modica-Snow shared with the Board that the building located at 104 Grand Street has been in her family since 1999 when her mother lived on the 1st floor and her sister lived on the 2nd floor. Ms. Modica-Snow explained that after her mother passed away, she realized it was great for her office and bought out her siblings in 2003. Ms. Modica-Snow explained that she rented one level to her previous tenants of 109 Grand St. and then when Ms. Modica-Snow sold her home, she and her husband moved into the upstairs apartment and rented the downstairs office space. Ms. Modica-Snow stated that after 9 ½ years the apartment has become too small for their needs and therefore is looking to move to a larger home. Ms. Modica-Snow concluded by stating that she just wanted to share the history of the building with the Board and that she believed there were a total of 6 letters of neighbor support for the requested variance.

Chairperson Wagner then asked if anyone else wanted to be heard on the application with no further comment from the public, Chairperson Wagner closed the public hearing.

The Zoning Board of Appeals discussed and reviewed the five factors:

1. No undesirable change in the character of the neighborhood nor detriment to nearby properties will be produced by the granting of the variance.

The Board agreed that by granting the variance, it is preserving the status quo. The Board discussed that there were no objections from the neighbors and Chairperson Wagner requested that the 6 letters of support submitted be on record.

2. The benefit sought by the applicant cannot be achieved by a method other than the requested variance.

The Board agreed that there are no other options to allow for the residential apartment to be rented to a non-owner without the area variance.

3. The requested variance is not substantial.

The Board discussed and agreed that the area variance is not substantial in that there are no physical changes being made and it will remain residence. Nothing is being physically being altered to the structure.

4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;

The Board agreed that there are no physical alterations being made to the building, therefore there will be no negative impact on the physical environment.

5. The difficulty alleged by the applicant was self-created.

The Board discussed and agreed that the applicant could potentially occupy the residential space as-is without a variance. Therefore, the alleged difficulty was self-created.

The Board noted that the requested variance is a different type of variance than what they usually have requested but that the Board felt comfortable with the decision to grant it.

MOTION: Chairperson Wagner made a motion to grant an area variance from Village Code Section 230-9.1A(10)(b)(1) for a non-owner-occupied residential 2nd floor apartment with a professional office on the 1st floor. Mr. Mastronardi seconded the motion. All in favor 3-0 (Mr. Olcott, absent; Mr. Tuman, Absent). Roll Call: Chairperson Wagner, yes, Mr. Mastronardi, yes, Mr. Weber, yes.

- c) *Joel Greenberg, Architect, AIA, representing Marjorie Deprez, Owner--34 Morningside Drive—Located in the RA-9 District and designated on the Tax Maps of the Village of Croton-on-Hudson as Section 79.9 Block 6 Lot 33. Request for side yard, total side yard, front yard and rear yard variances from Village Zoning Code Section 230-33A as well as for a variance from Village Code Section 230-53A(1) for enlarging a non-conforming use for a proposed addition of living space, an attached garage, carport, and rear deck to an existing 3-family*

house. The applicant has requested a 2-year variance from Village Zoning Code Section 230-164(E).

Mr. Joel Greenburg began by introducing himself to the Board as the architect representing his clients, Ms. Marjorie Deprez and Mr. Vincent Deprez of 34 Morningside Drive. Mr. Greenburg also introduced his associate, Mr. Joseph Trumbetta who was assisting in the presentation to the Board. Mr. Greenburg stated that he hoped the Board members had the opportunity to visit the property located at 34 Morningside Drive. Mr. Greenburg explained that the structure is a pre-existing, non-conforming 3-family house and is not presently owner occupied. Mr. Greenburg explained that there is the street level apartment and then 2 additional apartments below down street level and with the proposed alterations, the property owners (Mr. & Mrs. Deprez) would live in the street level apartment therefore becoming owner-occupied. Mr. Greenburg added that in addition to modernizing the apartments, they would also be adding a carport, 2-car garage, and creating an enclosed (interior) staircase for the tenants to safely enter their apartments especially in the winter months. Mr. Greenburg stated that the proposed renovations including the carport, upgrading the existing apartments with alterations and refacing the house would be an enhancement and benefit the neighborhood. The applicant stated that the alleged difficulty was not self-created because of the existing position of the house and that due to the configuration of the property, the only way to achieve the desired outcome would be by receiving the requested variances. Mr. Greenburg added that a positive aspect of the proposed project is that they are creating more off-street parking spots explaining that with the new parking area, all the tenants and homeowner(s) will be able to park off the street.

Mr. Trumbetta then walked the Board through the submitted drawings referencing pages A102 and A100 of which showed the addition of the interior stairwell from the parking area. Mr. Trumbetta added that the new, interior stairwell on the left side is designed to protect against snow and the elements to create a safer entry and access for the tenants from the parking area to their apartments. Mr. Trumbetta stated that Level 2 of the structure will have the most extensive changes in that it is attached to the garage with an open carport. The applicant stated that they are adding a rear deck which will create a 2-level (rear) deck. Referencing sheet A107 and A108, Mr. Trumbetta showed the front elevations of level two of the property where the proposed garage is open to the carport. Mr. Trumbetta explained that looking at the addition from the rear, there are 2 windows in the garage and that the outcropping on the left side shows where a new bathroom would be. The Board noted the removal of a back door at the lowest level. Mr. Trumbetta explained that the back door was removed and relocated to the lower side for entry and to allow for the addition of a bathroom.

The Board noted that the new garage will require a considerable retaining wall and asked for more detail. Mr. Greenburg confirmed that the garage will require a sizable retaining wall. Mr. Greenburg explained that the present off-street parking pad has deteriorated over the years and will take quite a bit of work but the new garage will butt up against the existing parking platform, offering additional support to the parking area noting that the only area that will have to be taken care of structurally is the rear of the platform. The Board asked if the cars will be able to pull straight into the carport. Mr. Greenburg stated that they will be able to pull straight in and that the platform area is large enough that the cars can turn around and safely pull forward out onto the street.

The Board then inquired about the neighbor located directly behind (below) on Truesdale Drive, asking what the impacts may be on that property. Mr. Greenburg explained that there is approximately a 50'ft

distance between the house on Truesdale and the rear property line for 34 Morningside. Mr. Greenburg stated that the proposed work will not affect the neighbors on Truesdale Drive or change site views.

Mr. Greenburg then shared with the Board that the neighbor across the street from 34 Morningside Drive was present at the meeting to support the project but had to leave and asked Mr. Greenburg to share that they had no objection to variances requested. Mr. Greenburg noted that these neighbors would be the ones who are most directly impacted by the proposed project.

The Board asked about the planned garage height. Mr. Greenburg responded that the height is a standard 8'ft garage height and emphasized the importance of the proposed garage in that it creates much needed off street parking. The Board asked the applicant what the views would be like from the property from below and if they considered any surficial treatment for the wall that is going to be created to support the garage. Mr. Greenburg responded by stating that it will be a large retaining wall that will be stucco and painted the color to match the house and that structurally the concrete around the parking platform has to be redone.

Chairperson Wagner asked the Zoning Board if they had additional questions or comments for the applicants. With no further questions from the Board, Chairperson Wagner opened the public hearing.

Ms. Mary Beth Hunt of 49 Truesdale Drive came forward to speak. Ms. Hunt explained that she owns the property and lives in the house directly behind 34 Morningside Drive and referenced that she is the neighbor the Board was previously inquiring about. Ms. Hunt explained to the Board that on their property they have 3 structures including the main house, a detached garage, and a cottage they rent out and that all 3 structures sit below (and behind) 34 Morningside Drive and have concerns about the impact the construction may have on her property.

Ms. Hunt then explained that her house is off-set the house on 34 Morningside but that her garage will be directly below and aligned with the applicant's proposed garage and that their cottage is aligned with the current parking platform. Ms. Hunt stated that her greatest concern is regarding drainage issues from the parking platform. Ms. Hunt stated there is currently drainage that runs from the parking platform directly down into the cottage. Ms. Hunt explained that they do not have a huge issue with drainage but there is a lot of erosion and that she would like to know more about the plans for the property and what will be done to prevent further erosion. The parking platform drainage comes out of 2 pipes right down onto the cottage. One year in a large storm the cottage flooded. Ms. Hunt explained that they put a timber retaining wall and drainage in to alleviate the issues but the timber wall is now being pushed out because of the erosion. Ms. Hunt expressed a second concern, stating that there is currently no land where the proposed garage will go as there is presently open stairs and would like to know how that land will be filled and the new garage be supported because it is a very steep slope that runs down on their property.

Mr. Greenburg validated Ms. Hunt's concerns, and explained that the concrete parking pad area will have to be re-done and that the new garage will butt up against the parking platform offering additional support to that area. Mr. Greenburg stated that they are aware of the drainage issues and that StormTech units (drainage systems) will be put in place and will have the Village Engineer involved during the process. Mr. Greenburg showed that the wall will be a masonry wall and will have weep holes. Mr. Greenburg stated that the wall be designed by a civil engineer and that the drainage will be re-routed. Mr. Greenburg

pointed out the location of Ms. Hunt's cottage and explained that the StormTech units will be located close to the parking platform and garage and all the water from the weep holes or water that comes off the parking platform will go into the StormTech units and there will be no visible water, Ms. Hunt stated that it was good to hear the erosion and water will be reverted and that the retaining walls will be reinforced and redone.

Ms. Hunt had a question regarding the deck variance but noted it was already established that the variance will only be 1ft. Ms. Hunt stated that they maintain the fence in the rear of the yard because they had existing variance when they purchased property 10 years ago and wanted to make sure that the variance is for 1' ft. Ms. Hunt then asked for clarification about the proposed carport confirming that it will be located over the existing structure. Mr. Greenburg confirmed and stated that the slab remains the same size (will not be extended but will have a roof over a portion of it. Ms. Hunt concluded by sharing that she was happy to learn that the property will now be owner occupied and that she is pleased that the new plan allows them to be owner occupied.

The Board asked if there will be catch basins on Morningside drive. Mr. Greenburg stated that there will not be because everything is pitched downwards but will be consulting the Village Engineer and will ensure to improve the situation.

Hearing no further comment from the public, Chairperson Wagner closed the public hearing.

Chairperson Wagner asked the Board if they were comfortable making a decision. The Board agreed that their concerns about drainage had been addressed and that they had sufficient information to make a decision. The Board noted that the front and side yard setbacks already existed as a non-conforming structure and that they are only being revisited because of the new, proposed work and because the new total side yard variance and new rear yard variances will be needed. The Board acknowledged that due to the amount of work to be done and that the existing, non-conforming has to be revisited and get those variances on the record as well as the newly created variances. Mr. Wegner, Assistant Village Engineer added that the granted variances would be a package and pointed out that the rear yard variance will need to be larger than 1'ft with the deck configuration making it more like a 5'ft rear yard variance. It was clarified that a 30'ft variance from the back of the structure to the property line will be needed so now the deck will come out to 5'ft into that 30'ft and that there will still be 25'ft from the property line to the deck.

The Board then discussed and reviewed the five factors:

1. No undesirable change in the character of the neighborhood nor detriment to nearby properties will be produced by the granting of the variance;

The Board agreed the proposed project would have no undesirable change and will be an improvement to the character of the neighborhood.

2. The benefit sought by the applicant cannot be achieved by a method other than the requested variance.

The Board agreed that most of the major variances were the pre-existing variances and that the desired outcome could not be achieved with the new requested variances.

3. The requested variance is substantial.
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. The difficulty alleged by the applicant was self-created.

MOTION: Mr. Weber made a motion to grant a side yard variance of 9.5'ft, a total side yard variance of 16.5'ft from 13.5'ft, a front yard variance of 24.5'ft, a rear yard variance from 1 ft to 5'ft from Village code Section 230-33A, and a variance from Village Code Section 230-53A(1) for enlarging a non-conforming use for an addition of living space, an attached garage, carport, and rear deck to an existing 3-family house. A 2-year variance was granted for the completion of the project from Village Zoning Code Section 230-164(E). Mr. Mastronardi seconded the motion. All in favor 3-0 (Mr. Olcott, absent; Mr. Tuman, Absent). Roll Call: Mr. Weber, yes, Mr. Mastronardi, yes, Chairperson Wagner, yes.

3. APPROVAL OF MINUTES

The approval of the May 11, 2022 meeting minutes and June 8, 2022 meeting minutes were postponed until the next Zoning Board Meeting scheduled to be held on September 14, 2022.

4. ADJOURNMENT

There being no further business to come before the board, the meeting was duly adjourned at 9:14 p.m.

Respectfully Submitted by,
Stefanie DeMattia, Secretary to the Zoning Board